

**MINUTES  
COMMISSION FOR MH/DD/SAS  
RULES COMMITTEE MEETING**

**Holiday Inn- North at Highwoods  
2805 Highwoods Blvd.  
Raleigh, N.C. 27604**

**Wednesday, April 13, 2005**

**Attending:**

**Commission/Committee Members:** Floyd McCullouch (Chair), Anna Scheyett (Co-Chair), Pender McElroy, Lois Batton, Laura Coker, Clayton Cone, Dorothy Crawford, Mazie Fleetwood, Buren Harrelson, Martha Martinat, Connie Mele, Emily Moore, Ellen Russell, William Sims, Ann Forbes, Tom Ryba, Bernard Sullivan,

**Ex-Officio Members:** Sally Cameron, Debra Dihoff, Joe Donovan, Bob Hedrick

**Division Staff:** Steven Hairston, Darlene Creech, Cindy Kornegay, Vanessa Holman, James Harris, Michael Lancaster, Leza Wainwright, Flo Stein, Mike Eisen

**Excused:** Fredrica Stell, Porter McAteer

**Others:** Stephanie Alexander, Amy Owensby, Scott Loudermelt, Austin Connors, Christine Trottier, Bill Duffy, Deanna Janus, David Scott, Christina Carter, Diane Pomper, Joe Donovan, Greg Barnes, Jennifer Sullivan, Jennifer Green, John Crawford

**Handouts:**

1. April 13, 2005 Rules Committee Agenda
2. January 19, 2005 Rules Committee Draft Minutes
3. Rule Tracking Report
4. Comments on Proposed Rules 10A NCAC 27G .1700 and 10A NCAC 27G .1900
  - Barium Springs Home for Children
  - Youth Focus
  - Leslie Kellenberger, Omni Visions/Omni Community Services
  - Kelly Schofield, M.D., Youth Quest, Inc.
  - Coalition for Persons Disabled by Mental Illness
  - N.C. Community Support Providers Council
  - Children and Family Services Association, North Carolina, 4/2/05
  - Chuck Hodierne, Youth Focus
  - N.C. Council of Community Programs
  - Avis Edmond, Genesis Family Home
  - Stuart Groll
  - Tom Hibbert, Timber Ridge Treatment Center
  - Deanna Janus, Pride in N.C., Inc.
  - Curtis Venable, Pisgah Legal Services
  - Wendy McGuire, HOPE Services
  - Becky Fields, F.A.C.T. Specialized Services
  - Scott Loudermelt, Sipes Orchard Home
  - Children and Family Services Association, North Carolina, 4/12/05
5. Proposed Client to Direct Care Staff Ratios

6. Comment Grid for Proposed Child Residential & PRTF, March 15, 2005 – May 16, 2005
7. Proposed Rules for Child Residential 10A NCAC 27G .1700 and PRTF 10A NCAC 27G.1900, as published
8. Draft Senate Subcommittee on Human Resources, Health and Human Services Recommended Budget, FY 05-06, FY 06-07
9. Commission for MH/DD/SAS Membership list

### **Welcome, Introductions and Approval of Minutes**

Chairman Floyd McCullouch called the meeting to order at 10:00 a.m. He announced an agenda change in order to assure time to discuss the proposed rule changes. A moment of silence was requested for fallen soldiers. All members, staff and visitors made introductions.

The minutes of the January 19, 2005 Rules Committee meeting were unanimously approved.

### **Comment Issues - Proposed Rules 10A NCAC 27G.1700 Residential Treatment and 10A NCAC 27G .1900 Psychiatric Residential Treatment Facility**

Dr. Michael Lancaster, DMH/DD/SAS Chief of Clinical Policy presented the proposed rule changes for 10A NCAC 27G .1700 Residential Treatment and 10A NCAC 27G .1900 Psychiatric Residential Treatment Facility. He stated that there are no expected changes for Level IV facilities.

Dr. Lancaster reported that the primary comments received centered around the following issues:

- .1702 -.1704 – Qualifications of Staff, job title/position versus required staff functions
- .1704(b) – Client/Staff Ratios, large versus small facilities and client sleep hours
- .1704(e) – Staff present in the facility versus available
- .1705 – Behavioral Health Professional, licensed versus advanced degree in human services and experience

Dr. Lancaster stated that the Division is currently working with DSS regarding Level II residential facilities, which are family type programs. The draft rules are in process but there are no concrete changes to report to the Committee at this time. Dr. Lancaster noted that he does not expect there to be a lot of changes with Level IV residential facility rules, but with the emphasis on family care the Division expects there to be significant comments regarding the Level II services.

#### **• .1702 - .1704 - Qualifications of Staff – Job Title /Position versus Required Staff Functions**

A number of comments were received concerning the proposed language specifying job titles/positions in rule. A number of comments recommended describing required functions instead of job titles or positions. The Division concurs and recommends making that change in the proposed rule language.

Anna Scheyett commented on .1704 (d), which states *that an additional on call paraprofessional staff shall be readily available and able to reach the facility within 30 minutes*. She asked whether paraprofessional staff were clinically appropriate to be on call in the event of a crisis.

- **.1704(b) – Client/Staff Ratios – Large versus Small Facilities and Client Sleep Hours**

Comments received expressed concerns over the proposed client/staff ratio of 1:2. Comments noted there is no distinction in the proposed rules between small or large facilities. Also there is no difference in the ratios required when clients are present and awake in the facility and ratios required during client sleep hours. The Division agrees that these factors need to be considered and recommends revising the proposed rule language concerning client/staff ratios.

There was discussion about ratio, when to add additional staff at 9 children is there a need to have 3 direct care staff “available” or are all 3 required to work directly with the children. The Rules Committee agreed to accept the Division’s Proposed Client to Direct Care Staff Ratios for Residential Treatment for Staff Secure for facilities with six beds or more. This would mean that for 6-8 children or adolescents, there would be 3 direct care staff when clients are present and awake and 2 awake direct care staff when clients are asleep. For 9-12 children or adolescents, there would be 4 direct care staff when clients are present and awake and 2 awake direct care staff and 1 additional staff (not necessarily awake) when clients are asleep.

- **.1704(e) (f) – Staff Present in the Facility versus Available**

.1704(e) The comments received sought clarification regarding requiring staff to be present rather than available. For example, does staff have to be present in the home at all times or available, ie, carrying a pager and able to be reached if necessary. It is the Division’s recommendation that someone be present in the home at all times in the event there is an unplanned return of a client. Some of the comments received stated concerns that staff being “present” and not merely available was overly restrictive and not cost effective. Bob Hedrick stated that that staff should be able to perform administrative duties during the day while children were away, as long as they are available by pager/cell phone and can reach the facility within 30 minutes to handle crises. Members of the Rules Committee and Dr. Lancaster presented examples illustrating the need to have at least one staff member present in the home at all times.

Bob Hedrick gave examples of pay scales private providers may use for staff sleeping while at the facility. One model he discussed included paying a differential for asleep versus awake staff.

- **.1705 – Behavioral Health Professional – Licensed versus Advanced Degree in Human Services and Experience**

.1705(a) Concern had been expressed that changing the rules to require a licensed behavioral health professional to provide four hours of face-to-face clinical consultation would be difficult because: 1) finding someone with appropriate degrees is difficult, 2) these individuals are not available in all areas, and 3) they are not included in the rate. However, DMH recommends keeping the requirements for the licensed clinician. Providers could request waivers of the rule on a case by case basis. These new requirements will be considered in future rate setting activities later in the year.

In the public comment period:

Austin Connors of Children and Family Services Association stated that the Commission should ask if the rules really add value as opposed to something else to count. He believes the proposed staffing ratios are excessive and adds cost without value. He also addressed the rates for residential treatment, saying that there were flaws in how the cost model used to determine the fiscal impact of the proposed rules.

Deanna Janus of Pride in North Carolina stated that providers were not a part of the proposed rule change process. She recapped issues that she had previously submitted in written format

Jennifer Green of Alexander Youth Network commented that it was clear that the comments being submitted were being read and that was most appreciated. She stated that Alexander Youth Network is JCAHO accredited and believes that being nationally accredited will address some of the issues being addressed in the proposed rule changes.

Tom Ryba pointed out that JCAHO accreditation will not specify client to staff ratios. JCAHO will only state that facilities should be adequately staffed with qualified and appropriately credentialed staff.

Bill Duffy of Success Behavioral Healthcare, Inc., advocated for funding increases for the smaller facilities. He stated that if the State does not address funding in the smaller facilities, the State will experience a mass exodus of private facilities. The capacity for alternative community services has not been developed and will likely create gaps in services.

Ellen Russell suggested the Commission members be given a time table of necessary rule actions which need to occur to support mental health reform activities over the next year.

Ann Forbes requested that Leza Wainwright present information on the impact the rates will have on private providers once the rules are implemented. Mike Lancaster stated that once the rules are implemented the rates will be revisited.

Anna Scheyett suggested that the state of the training of staff in residential care facilities in NC should be looked at on a broad spectrum by the Commission.

Committee members requested a copy of the tool being used by the Division of Facility Services and the Division of Mental Health, Developmental Disabilities and Substance Abuse Services in the children's treatment facilities surveys. They voiced appreciation for the weekly survey reports being provided by the Division.

Ann Forbes urged the Commission to consider the final goal of quality client services as they consider the proposed changes to the child residential rules.

Since the Committee members were not recommending any additional changes to those made by the Division, they agreed to consider the final proposed rules at the May 18, 2005 full Commission meeting. Additionally, with the 60-day comment period not ending until May 16, 2005, the final recommendations for the proposed rule adoptions/amendments for residential treatment centers and Psychiatric Residential Treatment Facilities will not be available until the May 18 meeting.

The meeting adjourned at 2:45 p.m.